

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rose Lantigua (S14)	Team: Squad #14	CCRB Case #: 201702094	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 03/10/2017 8:09 AM	Location of Incident: [REDACTED]	Precinct: 09	18 Mo. SOL 9/10/2018	EO SOL 9/10/2018	
Date/Time CV Reported Fri, 03/10/2017 4:30 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/20/2017 12:28 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POF Heather Perez	05843	942454	009 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Laura Peters	31381	955321	009 PCT
2. POM Michael Incantalupo	08176	957696	009 PCT
3. POM Yvener Cesar	05137	960352	009 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Heather Perez	Force: Police Officer Heather Perez used physical force against § 87(2)(b) inside of § 87(2)(b)	[REDACTED]
B.POF Heather Perez	Discourtesy: Police Officer Heather Perez spoke discourteously to § 87(2)(b) en route to 492 1st Avenue in Manhattan.	[REDACTED]

Case Summary

On March 10, 2017, § 87(2)(b) called the IAB command center to file this complaint on behalf of her § 87(2)(b)-old son, § 87(2)(b). The complaint was received at the CCRB on March 20, 2017. § 87(2)(b) was not present for the incident.

On March 10, 2017, at 8:09 a.m., § 87(2)(b) entered the § 87(2)(b) in Manhattan. § 87(2)(b) was enrolled in the school, but under suspension at the time of the incident. Police Officer Heather Perez, Police Officer Laura Peters, Police Officer Michael Incantalupo, and Police Officer Yvener Cesar, all of the 9th Precinct, arrived in response to a report of trespassing. § 87(2)(b) was escorted out of the school by PO Perez, who grabbed his left bicep, and PO Peters, who grabbed his right bicep. PO Perez allegedly twisted § 87(2)(b)'s left forearm towards his back (**Allegation A**).

§ 87(2)(b) was transported to an Administration for Children's Services ("ACS") facility, located at 492 1st Avenue in Manhattan, by PO Perez and PO Peters because he was under the guardianship of ACS at the time of this incident. En route to the ACS facility, PO Perez allegedly told § 87(2)(b) "You talk a lot of shit for a kid like you." (**Allegation B**) PO Perez and PO Peters dropped § 87(2)(b) off and left. § 87(2)(b) was treated by a nurse at the ACS facility for minor contusions, which he attributed to PO Perez twisting his arm. No arrests or summonses resulted from this incident.

There is no video evidence in this case.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
- As of July 19, 2017, § 87(2)(b) has not filed a Notice of Claim with the New York City Comptroller's Office regarding this incident (Board Review 03).

Civilian and Officer CCRB Histories

- § 87(2)(b) has filed 10 additional CCRB complaints § 87(2)(b)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- This is § 87(2)(b)'s first CCRB complaint (Board Review 05).
- This is the first CCRB complaint filed against PO Perez, an 11-year-member-of-service, and PO Peters, a four-year-member-of-service (see officer histories).

Findings and Recommendations

Allegation A -Force: Police Officer Heather Perez used physical force against § 87(2)(b)

§ 87(2)(b) inside of § 87(2)(b) § 87(2)(b) said that he told officers he would leave the school after retrieving his property. PO Perez said no and grabbed § 87(2)(b) s left bicep with both hands. PO Peters grabbed § 87(2)(b) s right bicep. § 87(2)(b) pushed PO Perez away and told her that he needed to retrieve his property. In response, PO Perez allegedly pulled § 87(2)(b) s left forearm towards his back and held it there for approximately 20 seconds. § 87(2)(b) who was never handcuffed, was informed that his property would be returned when he arrived at the ACS facility. § 87(2)(b) told PO Perez that it was not necessary to twist his arm and that he could walk to the car on his own. As § 87(2)(b) and the officers approached the staircase, § 87(2)(b) s friends walked by. Because he was embarrassed, § 87(2)(b) pulled away from the officers. He unsuccessfully attempted to twist out of PO Perez's grip (Board Review 06).

PO Perez and PO Peters both said that they escorted § 87(2)(b) to the staircase while maintaining a hold of his arms, but they both denied that PO Perez twisted § 87(2)(b) s arm behind his back. PO Perez believed § 87(2)(b) to be emotionally disturbed. She recalled two previous incidents at the school involving § 87(2)(b) one where he kicked the staff and another where he threatened to take a gun to school and shoot staff. PO Perez denied that § 87(2)(b) pulled away from the officers and reasoned that she put her hand on § 87(2)(b) s left wrist during the escort because she did not want to risk him running away from her and into traffic (Board Review 07) (Board Review 08).

The Threat, Resistance, of Injury ("TRI") Incident Worksheet, prepared by PO Perez, states that § 87(2)(b) was held by his upper arm to prevent escape in the stairway of § 87(2)(b) (Board Review 09).

According to NYPD Patrol Guide, Procedure 221-01, members of service may use force when it is reasonable to place a person in custody or prevent escape from custody (Board Review 10).

§ 87(2)(g)

Allegation B -Discourtesy: Police Officer Heather Perez spoke discourteously to § 87(2)(b) en route to 492 1st Avenue in Manhattan.

§ 87(2)(b) alleged that en route to the ACS facility, in response to him telling PO Perez that she twisted his arm on purpose, PO Perez said "You talk a lot of shit for a kid like you." § 87(2)(b) acknowledged calling PO Perez various names, including "pig" and "bitch."

PO Perez testified that § 87(2)(b) called her stupid and said that he hated cops, that he hated her specifically, and that he was going to call IAB and “have [her] shield.” PO Perez said that she attempted to diffuse the situation by explaining what was happening to § 87(2)(b) but she denied that she said, “You talk a lot of shit for a kid like you” and she denied using any profanity during this incident. PO Peters denied that she heard PO Perez make the alleged statement, and denied hearing PO Perez use any profanity during this incident.

§ 87(2)(g)

Squad: 14

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date